

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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LONTEX CORPORATION,

Plaintiff,

v.

NIKE, INC.,

Defendant.

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Civil Action No.: 18-cv-5623

(Hon. Michael M. Baylson)

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**JOINT STIPULATION TO MODIFY THE RECORD PURSUANT TO FEDERAL RULE  
OF APPELLATE PROCEDURE 10(e)(2)(A)**

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The parties in the above-captioned action, having met and conferred, and upon determining that good cause exists for the foregoing, hereby stipulate to modify the record in this action to include the “clip reports” of the designated, pre-recorded deposition testimony that was presented to the jury at trial. In support of this stipulation, the parties aver as follows:

1. This Court presided over a two-week civil jury trial in October 2021.
2. During trial, the parties presented the jury with exhibits, live witness testimony (both in-person and remote testimony), and pre-recorded deposition testimony that the parties respectively designated and counter-designated.
3. The Court Reporter transcribed the live witness testimony, which appears on the final trial transcripts that have been filed on ECF.
4. The designated, pre-recorded deposition testimony that was presented to the jury was *not* transcribed, however. As a result, that testimony is not reflected in the final trial transcripts that were filed on ECF.

5. During trial, the parties exchanged and agreed upon the contents of transcribed “clip reports” of the designated, pre-recorded deposition testimony shown to the jury. Those “clip reports” contain complete and accurate transcriptions of the pre-recorded deposition testimony. The clip reports are attached to this stipulation as **Exhibit A**.

6. This case is now on appeal to the U.S. Court of Appeal for the Third Circuit. The appeal has been stayed pending this Court’s entry of a final Amended Judgment, which this Court entered on April 18, 2022.

7. The parties agree that the designated, pre-recorded deposition testimony shown to the jury is trial evidence that should be included in the record for appeal in order to most accurately and completely reflect the trial proceedings that occurred in this Court.

8. Federal Rule of Appellate Procedure 10(e)(2)(A) permits parties to correct or modify the appellate record based on a stipulation of the parties: “If anything material to either party is omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected and a supplemental record may be certified and forwarded: (A) on stipulation of the parties.” Fed. R. App. P. 10(e)(2)(A).

9. Accordingly, the parties hereby stipulate that the clip reports attached to this Stipulation were unintentionally omitted from the record and should be included as part of the supplemental record that is certified and forwarded to the Third Circuit in connection with the pending appeal and cross-appeal.

SO STIPULATED.

Dated: April 27, 2022

Respectfully submitted,

By: Ilana H. Eisenstein

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**DATED: 4/28/2022**

**BY THE COURT:**

/s/ **MICHAEL M. BAYLSON**

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**MICHAEL M. BAYLSON, U.S.D.J.**